SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

44 MCALLISTER ASSOCIATES, L.P., a California Limited Partnership; Additional Parties form attached hereto.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ANTHONY CALDWELL

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ***¡AVISO!*** *Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), *en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), *en el Centro de Ayuda de las Cortes de California,* (www.sucorte.ca.gov) *o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is:
(El nombre y dirección de la corte es): San Francisco Superior Court
400 McAllister Street, San Francisco, California 94122

CASE NUMBER:
(Número del Caso): CGC-20-586990

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jeffrey J. Pettibone, Pettibone Tenant Law, 505 14th St., #900, Oakland, Ca 94612, (916) 949-4240

DATE: *(Fecha)* OCT 06 2020 Clerk, by *(Secretario)* ANGELICA SUNGA, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL] SUPERIOR COURT OF CALIFORNIA EUREKA COUNTY OF SAN FRANCISCO

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☐ on behalf of *(specify):*

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify):*

4. ☐ by personal delivery on *(date):*

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov

SHORT TITLE:	CASE NUMBER:
Anthony Caldwell v. 44 McAllister Assoc., L.P., a Cal. L.P., et al.	

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties *(Check only one box. Use a separate page for each type of party.)*:

☐ Plaintiff ☑ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

(1) 44 MCALLISTER GP LLC, a California Limited Liability Company;
(2) TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION, a California Corporation; and
(3) DOES 1 through 50, inclusive.

Form Adopted for Mandatory Use
Judicial Council of California
SUM-200(A) [Rev. January 1, 2007]

ADDITIONAL PARTIES ATTACHMENT
Attachment to Summons

Jeffrey J. Pettibone, Esq., SBN:320127
PETTIBONE TENANT LAW
505 14th Street, Ste 900
Oakland, California 94612
Telephone: (916) 949-4240
Fax: (510) 842-1504
info@pettibonetenantlaw.com

Attorney for Plaintiff

FILED
Superior Court of California
County of San Francisco
OCT 06 2020
CLERK OF THE COURT
BY: ANGELICA SUNGA Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO, UNLIMITED

ANTHONY CALDWELL,

Plaintiff,

vs.

44 MCALLISTER ASSOCIATES, L.P., a California Limited Partnership, 44 MCALLISTER GP LLC, a California Limited Liability Company, TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION, a California Corporation, and DOES 1 through 50, inclusive,

Defendants.

Case No. CGC-20-586990

COMPLAINT FOR DAMAGES

1. Violation of San Francisco Administrative Code § 37.10B
2. Constructive Eviction
3. Wrongful Eviction - Violation of San Francisco Administrative Code § 37.9
4. Breach of the Implied Warranty of Habitability
5. Breach of the Statutory Warranty of Habitability
6. Nuisance
7. Breach of the Covenant of Quiet Enjoyment
8. Negligence/Personal Injury
9. Negligent Violation of Statutory Duty
10. Intentional Infliction of Emotional Distress
11. Violation of Cal. Civ. Code § 1942.5
12. Breach of Contract

JURY TRIAL DEMANDED

Comes now, ANTHONY CALDWELL ("Plaintiff"), who allege as follows:

PARTIES

1. At all times herein relevant, Plaintiff was a competent adult residing in the City of San Francisco, County of San Francisco, State of California. This court is the proper court, because Defendants do business in its jurisdictional area, the pertinent property is located in its jurisdictional area, the damage to Plaintiff, and the making of the contract subject to this action occurred within its jurisdictional area.

2. Plaintiff was a residential tenant at a Single Room Occupancy ("SRO") unit in a multi-unit building located at 44 McAllister St., San Francisco, California 94102 (the "Property). Plaintiff resided in Unit #709 at the Subject Property (the "Premises") for approximately 13 years. The Property is a multi-unit residential building built before June 13, 1979, and the Premises was at all relevant times a "rental unit," as that term is defined by § 37.2(r) of San Francisco's Administrative Code ("Rent Ordinance").

3. Plaintiff occupied the Premises from his initial occupancy until vacating the Premises on or about March 17, 2020, paying a monthly rent of $430 when he was forced to abandon the Premises.

4. Defendants repeatedly accepted rent from Plaintiff in exchange for the right of possession, but Plaintiff was not able to retain, and was not subsequently provided, a copy of the written lease agreement. Plaintiff will amend the Complaint to include a copy of the written lease agreement upon receipt of same in the course of written discovery. Plaintiff can nevertheless prove his tenancy at the Premises. True and correct copies of Documents Showing Plaintiff's Tenancy are attached hereto at **Exhibit A**.

5. Plaintiff qualifies as "persons who hire a dwelling" (i.e. tenants) as defined by California Civil Code § 1940 and avails themselves of all the rights, remedies and benefits contained therein.

6. Plaintiff is informed and believes, and thereon alleges, that Defendant 44 MCALLISTER ASSOCIATES, L.P., a California Limited Partnership, Defendant 44 MCALLISTER GP LLC, a California Limited Liability Company, and Defendant TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION, a California Corporation (hereinafter collectively "Defendants"), and DOES 1 through 50, inclusive, owned, controlled, and/or managed the Premises during the relevant period of this complaint.

7. Plaintiff is informed and believes, and thereon alleges, that at all relevant times Defendants were Plaintiff's landlords, and Plaintiff was a tenant of Defendants as those terms, "landlord" and "tenant" are

defined under California Common Law, under California Code of Civil Procedure § 1161 *et seq.* and under California Civil Code § 1980.

8. The true names and capacities of Defendants sued herein as Does 1 through 50, inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff who therefore sues such Defendants by such fictitious names. When their true names and capacities are ascertained, Plaintiff will amend this Complaint by asserting their true names and capacities herein. Plaintiff is informed and believe, and thereon allege, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by those Defendants.

9. Plaintiff is informed and believes and thereon alleges that in doing the things herein alleged, the Defendants, and each of them, including without limitation the Doe Defendants, were acting as the agents, employees and/or principals of their co-defendants, and were generally acting within the course and scope of their agency and employment.

10. Plaintiff is informed and believes and thereon alleges that at all times relevant herein, each employer of employees had advanced knowledge of the unfitness of the employee and employed them with conscious disregard of the rights or safety of Plaintiff and others and authorized and/or ratified the wrongful conduct and/or was personally guilty of oppression, fraud, or malice.

SUBSTANTIVE ALLEGATIONS

11. Pursuant to a Rental Agreement executed in or around September 2007, Plaintiff resided in the Premises as a tenant. Plaintiff resided at the Premises with other roommates for the duration of her tenancy, though only she and roommate Abraham Roth resided there consistently until his ouster.

12. Pursuant to the Rental Agreement, and through repeated acceptance of rent payments in exchange for the right of exclusive use and possession of the Premises, Defendants, among other things, expressly and impliedly warranted that the Subject Property and Premises was and would remain habitable and that Defendants would maintain and repair the Subject Property and Premises in such a manner as to keep it habitable and safe to occupy. Defendants also thereby expressly and, via Section 37.10B, et seq., of the Rent Ordinance, impliedly warranted that they would refrain from harassing or other retaliatory conduct of a nature and duration that would tend to cause a tenant to surrender possession of their rental unit.

13. Plaintiff is informed and believes and thereupon alleges that Defendants knew or should have known that they hold the duty to maintain the premises and failing that duty would cause the property to be operated beneath the habitability level as required by law and would result in emotional distress, loss of use, and other damages that are the subject of this complaint.

14. The Premises and Property suffered from rodent infestations from approximately 2017 onward. Plaintiff repeatedly observed, as recently as January 2020, rodents on stairways and other common areas of the Property. Plaintiff requested rodent abatement, but Defendants failed to keep the Premises free from rodents. On information and belief, the rodent infestation persists as of this filing.

15. The Premises and Property suffered from cockroach infestations from approximately 2016 to January 2020. Plaintiff repeatedly observed cockroaches in the Premises and in common areas of the Property. Plaintiff requested abatement, but Defendants failed to keep the Premises free from cockroaches until six (6) months after Plaintiff notified San Francisco's Department of Building Inspection ("DBI").

16. On June 4, 2019, DBI received a complaint, No. 201960102, from Plaintiff regarding several substandard conditions on the 7th Floor of the Property. Specifically, the 7th Floor presented: a rodent infestation; defective shower in the bathroom area, inclusive of the handicapped shower; biological contamination growing on surfaces in the bathroom; lack of security features, such as cameras and functioning telephone/telecom inside rental units; and a cockroach infestation. Inspector Barber arrived on June 5, 2019, "and observed violations of the San Francisco Housing Code." Defendants subsequently received and retaliated for a Notice of Violation. True and correct copies of DBI Complaints and NOVs are attached hereto at **Exhibit B**.

17. On June, 14, 2019, DBI issued Notice of Violation ("NOV") against Defendants based upon the substandard conditions Inspector Barber observed. Plaintiff was unable to obtain a copy of that NOV, but complaint tracking shows Defendants delayed repairs, received an Order of Abatement, and ultimately failed to abate the noticed violations until December 11, 2019.

18. On September 13, 2019, DBI received another, anonymous complaint regarding substandard conditions on the 7th Floor of the Property. The complaint sites a broken shower hose, a leaking sink, and that a knob was missing from a radiator.

19. On September 18, 2019, DBI issued another NOV, No. 201985631, against Defendants and this time included violations specific to the Premises: (1) seal leaking sink and repair water damage resulting from the leak; (2) Repair large gap and hole at the side wall of the cabinet below the sink; (3) close holes or gaps to prevent entry of pests; and (4) replace missing radiator knob to provide tenant heat control. Defendants ultimately failed to abate the noticed violations until December 11, 2019.

20. Defendants were at all times fully aware that they, acting as managers and operators at the Property, had failed to maintain it to the standard of habitability as required by law. In addition to the foregoing substandard and defective conditions, including water intrusion, lack of heat, lack of ventilation, excess moisture, and resulting contamination, the Premises lacked the characteristics of a habitable dwelling.

21. Plaintiff is informed and believes and thereupon alleges that Defendants knew or should have known that they hold the duty to refrain from harassing or retaliating against their tenants as required by law, and that harassment deliberately undertaken to recoup possession of the Premises would result in emotional distress, loss of use, and other damages that are the subject of this complaint.

22. As they purport to provide supportive housing and assigned multiple social workers to Plaintiff over the course of his 13-year tenancy, Defendants were aware that Plaintiff suffered severe disabilities arising from Post Traumatic Stress Disorder.

23. Plaintiff specifically requested reasonable accommodations multiple times over the course of his tenancy. In those requests, dated November 14, 2017, and September 5, 2019, Plaintiff or his legal counsel provided additional written notice of Plaintiff's disabled condition and susceptibility to further trauma.

24. Defendants nevertheless engaged in direct conflict with Plaintiff, or condoned, or otherwise failed to address, the following instances of harassing conduct from staff:

a. Senior staff issued lease violations against Plaintiff for trivial matters for the purpose of retaliating against Plaintiff and controlling him. For example, on October 18, 2016, Senior General Manager Marco Tulcanza issued a lease violation in response to Plaintiff requesting a produce list from a vendor while helping with an event;

b. Staff leveled false accusations against Plaintiff and threatened eviction after Plaintiff advocated for tenant support groups, as stated in an October 26, 2017, grievance form;

c. Staff mocked Plaintiff for recommending healing groups, for which he was accused of "debating" and told to "be quiet," as stated in an October 26, 2017, grievance form;

d. Staff issued retaliatory Notices to Quit and verbal eviction threats following Plaintiff's assertion of rights, such as the Notice to Quit issued on January 17, 2018;

e. Staff lost or feigned loss of Plaintiff's rent after failing to provide receipts, such as described in a February 15, 2018, grievance form;

f. Staff, and Manager Tiona Mitchell especially, screamed and cursed at Plaintiff, and specifically about eviction matters both threatened and pending, as was reported in a July 25, 2018, grievance form;

g. Deliberately ignored recurring death threats from Plaintiff's neighbor in #703, such as was reported in a December 3, 2018, grievance form;

h. Deliberately failed to address or abate recurring homophobic and racial abuse from other tenants, such as was recorded in grievance forms and Incident Reports dated May 2016, February 15, 2018, July 23, 2018, December 10, 2018, and March 31, 2019;

i. Refused to accept grievances and notice of substandard conditions at the Property from Plaintiff, and specifically because Defendants were suing him, as recorded in a March 26, 2019, grievance form;

j. Refused to accept Plaintiff's rent for *over a year* while failing to prosecute an ostensibly related lawsuit alleging, *inter alia*, non-payment of rent; and

k. Treated Plaintiff like a "complainer" or a as a nuisance as a result of his providing timely verbal and written notice of nuisances, safety threats, and substandard conditions;

l. Deliberately delayed repairs to substandard conditions cited in two (2) separate NOVs.

25. On September 4, 2018, Sheryl Davis of San Francisco's Human Rights Commission wrote a letter to Defendants' Chief Executive Officer, Donald Falk, to both substantiate and seek an investigation into the recurring sexual harassment and verbal abuse Plaintiff suffered, as well as staff's insensitive responses. Ms. Davis stated that Plaintiff was not the first person to report racial discrimination at TNDC sites, and, this in mind, she offered to provide further training and assistance to Defendants on that issue.

26. In the absence of any response -- let alone any action -- from Defendants in response to the September 4, 2018, letter from Sheryl Davis, Plaintiff suffered significant psychological trauma that manifested both emotionally and physically. Plaintiff suffered, inter alia, significant sleep loss, headaches, loss of appetite, severe depression, suicidal ideation, severe anxiety and agitation, general malaise, and severe psychological trauma that exacerbated his existing Post Traumatic Stress Disorder. Defendants received notice of these mental and physical injuries but deliberately failed to address staff's behavior.

27. Sadly, the persistent harassment from other tenants as well as the dismissive and hostile conduct of Defendants' staff caused Plaintiff to periodically lose his desire to live. In a note recorded by Plaintiff's social worker on March 15, 2018, Plaintiff specifically requested that he be subject to 5150 Involuntary Treatment if he reported further suicidal ideation. The note calls out Defendants' management and staff at the Property as the direct and proximate cause of Plaintiff's agonized and rapidly deteriorating mental state.

28. On February 5, 2019, Liliana Palacios with SF Women Against Rape, contacted Patricia Barragan of the San Francisco District Attorney's office regarding the ongoing sexual and homophobic harassment Plaintiff had endured at the Property and Premises. Plaintiff presented with extreme anxiety, agitation, significant sleep problems and loss of appetite. As the problem had gone on for so long without help or treatment, Ms. Palacios felt that Plaintiff would benefit from additional victim advocacy services. Defendants received a copy of this letter but ignored Plaintiffs pleas for help.

29. On June 12, 2019, Dr. Paul Linde, M.D., informed Defendants' 504 Coordinator, Allycia Cornet, that it was medically necessary to relocate Plaintiff to another property to avoid the "hostile environment" at the Property. The ABPN board-certified psychiatrist wrote that Plaintiff suffered a condition covered under the Americans with Disabilities Act. Dr. Linde specifically stated: "I am requesting a reasonable accommodation allowing the patient to move to a different housing program within your organization. I do not see an accommodation short of this as adequate to address his symptoms." Dr. Linde stated that the recurring homophobic, threatening, and discriminatory interactions with Defendants' staff made relocation, "medically necessary to treat his deteriorating mental health due to his disabling condition."

30. From July 2019, onward, Plaintiff endured repeated harassment from staff, including but not limited to Manager Tiona Mitchell, who repeatedly mocked Plaintiff, refused to address his demands for

remediation of substandard conditions, refused to address repeated notice of racial and homophobic abuse from tenants and staff, refused to address, accusing him of lying, and yelling at him repeatedly.

31. Ms. Mitchell's habitual harassing conduct included mocking the fact that Defendant TNDC deliberately maintained but did not diligently prosecute an Unlawful Detainer action against Plaintiff. Separate and apart from filing and litigating that Unlawful Detainer action, Ms. Mitchell's conduct, in repeatedly referencing and threatening a pending eviction to cause emotional harm to or evoke her relative power over Plaintiff for the purpose of causing him to cease providing notice of defects and harassment.

32. Defendants' retaliatory harassment of and conduct against Plaintiff did not cease for the duration of the Unlawful Detainer against him and persisted beyond the abatement of conditions DBI cited.

33. Defendants failed or, on multiple bases, refused to collect rent from Plaintiff for the period of approximately January 2019 until the day of his ouster on March 17, 2020.

34. Defendants' retaliatory conduct included that of refusing to accept Plaintiff's rent for over a year, failing to abate substandard conditions, nuisances, and defects cited in multiple NOVs that went unabated from June 2019 to December 2019.

35. On or about March 17, 2020, Plaintiff and Defendant TENDERLOIN NEIGHBORHOOD DEVELOPMENT CORPORATION, a California Corporation ("Defendant TNDC"), (but no other Defendant to this action) entered into an agreement that allowed Plaintiff to surrender possession without penalty while preserving his ability to bring the instant complaint. Paragraph 5 waived Plaintiff ANTHONY CALDWELL's right to sue for a specifically pertinent Notice to Pay Rent or Quit and purported termination pursuant to an Unlawful Detainer. However, Paragraph 6 of the agreement otherwise preserved the parties' rights to bring a complaint for damages arising from either alleged non-payment or the allegations Plaintiff sets forth herein. Paragraph 6 expressly provides that, in response to and eventual lawsuit, Defendant TNDC may assert allegedly unpaid rent, "as a defense of, off-set, and as a claim in a cross-complaint, in any action or proceeding brought by [Plaintiff ANTHONY CALDWELL], but the trier of fact in that action may reduce the amount of the [alleged] debt in light of any evidence presented by [Plaintiff ANTHONY CALDWELL] in such action."

36. On March 17, 2020, to preserve his physical health, mental health, and overall wellbeing, and to

escape further harassment and retaliation, Plaintiff surrendered possession of the Premises.

37. Due to the exceptionally high cost of rental units in and around San Francisco as of that time, and the scarcity of affordable housing programs, Plaintiff was forced to move out of state and now resides in Lincoln, Nebraska. Plaintiff suffered both loss of use of the Premises and eviction from San Francisco.

38. Plaintiff did not cause or contribute to the substandard conditions or abusive conduct described herein and had fulfilled his obligations as a tenant at all times.

39. Defendants engaged in a course of conduct intended to oust the Plaintiff from the Premises. Such conduct included, but was not limited to, the following:

a. Failing to provide a habitable dwelling free from defects;

b. Continuously failing to maintain and repair known habitability violations in the unit;

c. Failing to maintain and repair the premises in a habitable condition;

d. Failing to prevent water leakage into the Premises;

e. Failing to make the Premises compliant with building codes;

f. Failing to abate rodent infestation;

g. Failing to abate a cockroach infestation;

h. Repeatedly engaging in harassing conduct, including but not limited to that conduct set forth in paragraph 24(a) – (l), above;

i. Interrupting, terminating or failing to provide housing services required by contract or by State, County or local housing, health or safety laws;

j. Failing to exercise due diligence in completing repairs and maintenance once undertaken or fail to follow appropriate industry repair;

k. Interfering with Plaintiff's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;

l. Influencing or attempting to influence a tenant to vacate a rental housing unit through fraud, intimidation, or coercion;

m. Refusing to cash Plaintiff's rent check for over thirty (30) days;

n. Refusing to accept or acknowledge receipt of a tenant's lawful rent payment;

o. Repeatedly interfering with Plaintiff's right to privacy; and

p. Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.

40. Each Defendant had actual and constructive knowledge of such conditions and conduct at the Premises and the Property and failed to cure the conditions and conduct set forth herein.

41. Throughout his occupancy of the Premises, Plaintiff repeatedly notified Defendants and/or their agents, both orally and in writing, of the defective and dangerous conditions listed above, among others, and requested that Defendants have them repaired. Despite these requests, Defendants, and each of them, failed and/or refused to timely repair the conditions, and/or have done so in a negligent and/or unreasonable fashion and in bad faith.

42. Throughout his occupancy of the Premises, Plaintiff repeatedly notified Defendants and/or their agents, both orally and in writing, that their behavior was offensive, harassing, retaliatory, and clearly intended to force Plaintiff off the Premises. Plaintiff repeatedly requested that Defendants, and their agents, cease the behavior. Despite these requests, Defendants, and each of them, failed and/or refused to cease harassment or otherwise preserve Plaintiff's quiet enjoyment of the Premises.

43. Defendants exhibited wanton and blatant disregard of these unsanitary and uninhabitable conditions at the Property and Premises, as most were manifestly visible to the untrained observer.

44. Defendants exhibited wanton and blatant disregard for Plaintiff's right to the undisturbed, peaceful, and quiet enjoyment of the Premises free from harassment generally, and that made specifically on the basis of his race and sexual orientation.

45. Defendants did not perform their obligation under the rental agreement in ways that include, but are not limited to the following:

a. Breaching the warranty of habitability by not making the needed repairs;

b. Failing to maintain the Premises in a safe and habitable condition;

c. Denying Plaintiff's peaceable quiet enjoyment of the Premises, free from harassment.

46. As a direct and proximate result of the above conduct and resultant conditions in the Premises, Plaintiff suffered and continues to suffer mental and emotional pain and distress, including, but not limited to, embarrassment, humiliation, discomfort, exacerbation and annoyance, and severe exacerbation of his PTSD, all to his general damage in an amount to be proven at trial.

47. As a direct and proximate result of the above conduct and resultant conditions in the Premises, Plaintiff suffered personal injury from his exposure to substandard conditions and malicious harassment.

48. As a direct and proximate result of the above acts by Defendants, and each of them, Plaintiff paid excessive rent for the Premises during the length of his tenancy.

49. As a direct and proximate result of the above acts by Defendants, and each of them, Plaintiff lost possession of the Premises and suffered loss of use of the Premises to his general damage in an amount to be proven at trial.

50. Defendants endeavored to recover possession of the Premises in bad faith through unlawful harassment and other means, including but not limited to the following actions:

a. Refusing to perform effective repairs of the severely dilapidated conditions which rendered the Premises uninhabitable;

b. Demanding rent while the Premises were in a condition of disrepair, as cited in multiple NOVs that went unabated for months on end, well past the 35-day abatement requirement;

c. Seeking to force Plaintiff to vacate the Premises by permitting the Premises to fall into disrepair and/or remain in a condition that was a threat to the health and safety of Plaintiff, and any occupants, in an effort to recover the Premises;

d. Repeatedly failing to collect rental payments;

e. Repeatedly engaging in harassing conduct, including but not limited to that conduct set forth in paragraph 24(a) – (l), above;

f. Interrupting, terminating, or failing to provide housing services required by contract or by State, County or local housing, health or safety laws;

g. Failing to exercise due diligence in completing repairs and maintenance once undertaken or fail to follow appropriate industry repair, containment or remediation protocols designed to minimize exposure to materials with potentially harmful health impacts;

h. Interfering with Plaintiff's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;

i. Influencing or attempting to influence a tenant to vacate a rental housing unit through fraud, intimidation, or coercion

j. Refusing to cash Plaintiff's rent check for over thirty (30) days;

k. Refusing to accept or acknowledge receipt of a tenant's lawful rent payment;

l. Repeatedly interfering with Plaintiff's right to privacy; and

m. Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.

51. As a direct and proximate result of the above conduct, Plaintiff suffered and continues to suffer the loss of use of the Subject Premises, attorney fees, and other special damages.

52. Defendants' conduct was without right or justification and done for the purpose of depriving Plaintiff of his right to possession of the Premises. Defendants engaged in the above-described conduct with the knowledge that the conduct was without right or justification and without regard for the fact that it would cause injury to Plaintiff, notwithstanding their obligation to comply with applicable ordinances and statutes providing for quiet possession and enjoyment of the Premises.

FIRST CAUSE OF ACTION
(Violation of San Francisco Administrative Code § 37.10 B)

53. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

54. The acts described above constitute unlawful harassment under the San Francisco Administrative Code § 37 *et seq.* (the "Rent Ordinance") as Defendants, in bad faith, refused to perform their duties and contractual obligations. Defendants bad faith conduct included, but is not limited to Defendants' promise

to perform repairs and subsequent failure to perform any repairs in an attempt to oust Plaintiff from his home, as described above.

55. Defendants' prohibited harassing and retaliatory conduct against Plaintiff included, but is not limited to: (1) deliberately failing to timely repair water leaks in the Premises; (2) deliberately failing to timely abate rodent infestation in the Property and Premises; (3) deliberately failing to timely abate the cockroach infestation in the Premises; (4) refusing to collect rent, failed to cash rent payments for more than 30 days; (5) later attempting to collect rent while failing to abate substandard conditions cited by DBI, a local code enforcement agency, for more than 35 days; (6) retaliated with coercion in the form of yelling and eviction threats; (7) mocking Plaintiff for being subject to a lingering Unlawful Detainer; (8) issuing lease violations for trivial matters for the purpose of threatening and controlling Plaintiff; (9) refusing to accept or acknowledge receipt of a tenant's lawful rent payment by providing receipts; (10) deliberate failure to address homophobic or racist harassment from staff and tenants; (11) repeatedly interfering with Plaintiff's right to privacy; and (12) engaging in other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, all in violation of Rent Ordinance §§ 37.10B(a).

56. As a direct, proximate, and foreseeable result of Defendants' actions, Plaintiff suffered general and special damages in an amount to be determined at trial, but in no event less than the jurisdictional limits of this Court, and trebled pursuant to San Francisco Administrative Code § 37.10B(c)(5).

57. Defendants' repeated retaliatory harassment of Plaintiff, as detailed herein, was so outrageous that Defendants acted in knowing violation or reckless disregard of § 37.10B and Plaintiff is therefore entitled to trebled damages for mental and emotional distress.

58. As a direct, proximate, and foreseeable result of Defendants' illegal actions done with oppression, fraud and malice, Plaintiff has been denied the full use and enjoyment of the Premises and suffered and continues to suffer considerable mental anguish, fear, anxiety and pain and has therefore been damaged in an amount to be determined at trial and trebled according to statute.

59. Pursuant to Rent Ordinance § 37.10B(c)(5), Plaintiff is entitled to recover reasonable attorney fees incurred in the prosecution of this action.

60. Pursuant to Rent Ordinance § 37.10B(c)(5), Plaintiff is entitled to recover punitive damages. Defendants' conduct in failing and refusing to maintain the property, and in repeatedly harassing Plaintiff in violation of the Rental Agreement, has been despicable, malicious, willful, knowing, cruel, unjust and oppressive, thereby entitling Plaintiff to punitive damages in an amount to be proven at trial.

SECOND CAUSE OF ACTION
(Constructive Eviction)

61. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

62. Due to the above-stated acts or omissions of Defendants, and the intolerable conditions of the Premises, which rendered the Premises unfit for use as a residence, Plaintiff was compelled to abandon the Premises, which Plaintiff did on or about March 17, 2020.

63. Plaintiff abandoned the Premises after determining that Defendants would not take the necessary and requested actions to maintain and repair the Premises.

64. Plaintiff abandoned the Premises after determining that Defendants would not cease egregious retaliatory harassment, including but not limited to the conduct set forth in paragraphs 24, 39, 50 and 55.

65. As a proximate result of the Defendants' acts of constructive eviction as herein alleged, Plaintiff has suffered general damages in an amount to be proven at trial.

THIRD CAUSE OF ACTION
(Violation of San Francisco Rent Stabilization and Arbitration Ordinance, § 37.9, *et seq.)*

66. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

67. Defendants endeavored to recover possession of the Premises in bad faith and in a manner not permitted by the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance") and thereby violated the provisions of the Rent Ordinance § 37.9, *et seq.*

68. Defendants' failure to maintain and repair the defective and substandard conditions at the Premises was intended to, and did, cause Plaintiff to abandon his low-income housing.

69. Defendants' egregious retaliatory harassment, including but not limited to the conduct set forth in paragraphs 24, 39, 50 and 55, was intended to, and did, cause Plaintiff to abandon his low-income home.

70. Section 37.9(f) of the Rent Ordinance provides for an award of not less than three times the actual damages when a landlord or any other person willfully assists the landlord to endeavor to recover possession of a rental unit in violation of Chapter 37.9, *et seq.*, and Plaintiff is therefore entitled to three times actual damages.

71. Defendants acted in knowing violation of or reckless disregard for Plaintiff's rights under the Rent Ordinance, and Plaintiff is thereby entitled to three times his damages for emotional distress.

72. Chapter 37.9(f) of the Rent Ordinance provides for the award of reasonable attorney's fees to the prevailing party in any action brought under this section.

73. As a direct and proximate result of the Defendants' repeated violation of the San Francisco Administrative Code, Plaintiff suffered damages as set forth herein.

FOURTH CAUSE OF ACTION
(Breach of the Implied Warranty of Habitability as to All Defendants)

74. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

75. At all relevant times herein, numerous defective living conditions have existed, and continue to exist, at the Subject Property. These defective conditions include but are not limited to:

a. Water leakage into the Premises;

b. Foul, musty smells throughout the unit due to damp and wet conditions;

c. Inadequate performance of necessary maintenance and/or rehabilitation;

d. Infestation of rodents; and

e. Infestation of cockroaches.

76. The defective conditions stated above constitute violations of state and local housing laws and pose severe health, safety and fire hazards. The defective conditions materially affected Plaintiff's living conditions.

77. Defendants had actual and constructive notice of each of the defective conditions described above at all relevant times herein. Despite such notice, Defendants failed to take the steps necessary to repair said conditions at all times relevant herein.

78. Plaintiff paid Defendants monthly rent during the time he occupied the Premises, unless he was prohibited from doing so by Defendants' refusal or failure to collect rent, either due to outstanding Notices of Violation from DBI or to an Unlawful Detainer pending against Plaintiff for over a calendar year.

79. From June 2019 to December 2019, San Francisco's DBI issued multiple Notices of Violation, as well as an Abatement Order, against Defendants for their deliberate failure to timely remediate numerous substandard conditions that affected the Property generally and Premises specifically. Violations included, but were not limited to, (1) lack of a shower hose in the 7th Floor bathroom; (2) water leakage into the Premises, and resulting water damage and surface contamination; (3) gaps in walls that allowed pests into the Premises; and (4) failure to replace a missing radiator knob to provide Plaintiff with heat control. Defendants took up to six (6) months to complete the necessary repairs.

80. The substandard conditions, habitability defects, and nuisances cited by DBI had existed for months or years before Plaintiff and other anonymous tenants brought their complaints to DBI.

81. Plaintiff did nothing to cause, create or contribute to the existence of the defective conditions stated above.

82. By Defendants' breach of the warranty of habitability, Defendants breached a duty imposed on all residential landlords by State and local law. In failing to repair the defective conditions detailed above, Defendants acted unreasonably.

83. As a direct and proximate result of Defendants' breach, Plaintiff suffered, and continues to suffer, pain, anxiety, annoyance, inconvenience, distress, economic loss, loss of use and property damage, all to her detriment in amounts to be determined at trial.

84. Pursuant to the lease agreement between the parties, Plaintiff will also be entitled to attorney fees for Defendants' breach.

FIFTH CAUSE OF ACTION
(Breach of Statutory Warranty of Habitability)

85. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

86. Defendants have violated statutes, including, among others, Civil Code Section 1941, *et seq.*, and Health & Safety Code section 17920.3 related to the implied warranty of habitability.

87. Plaintiff repeatedly notified Defendants, both orally and in writing, of these unsanitary, unhealthy and/or defective conditions. Defendants failed and/or refused to repair these dangerous and defective conditions within a reasonable time, or at all. Accordingly, Plaintiff is informed and believes, and thereupon alleges, that Defendants had actual and/or constructive notice of each of the defective conditions described above at all relevant times herein. Despite such notice, Defendants failed to take the steps necessary to repair said conditions at all times relevant herein.

88. Plaintiff paid Defendants all rent they would collect during the time he occupied the Premises, though the amount of rent allegedly owed remains in dispute following (a) Defendants' deliberate failure to abate substandard conditions cited by DBI for more than thirty-five (35) days and (b) Defendants' maintenance of, yet failure to diligently prosecute, an Unlawful Detainer against Plaintiff for over a year.

89. Plaintiff did nothing to cause, create or contribute to the existence of the defective conditions stated above. Further, the Premises and the Subject Property, as it existed in its defective and dangerous condition had no rental value whatsoever as a result of its defective and dangerous condition.

90. As a direct and proximate result of Defendants' breach of the statutory warranty of habitability and their failure to repair the defective and dangerous conditions or have them repaired within a reasonable time or at all, Plaintiff suffered, and continues to suffer, pain, anxiety, annoyance, inconvenience, distress, economic loss, loss of use and property damage, all to their detriment in amounts to be determined at trial.

SIXTH CAUSE OF ACTION
(Nuisance)

91. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

92. Plaintiff, by virtue of his rental of the Premises and the Rental Agreement, had at all relevant times, a property interest in the Premises. Defendants' conduct in creating and maintaining a nuisance premises in the manner described herein, was injurious to Plaintiff's health, offensive to Plaintiff's senses, and interfered with his comfortable enjoyment of life, personal property, and interest in the Premises.

93. Defendants created and maintained the deficient conditions in the property by failing to correct or repair defective conditions. Defendants' conduct in maintaining the Premises and Subject Property in a substandard, unhealthy and offensive state was grossly negligent and Defendants should have known that regular upkeep would be required to maintain the habitability of the Premises.

94. As a direct, legal and foreseeable result of the conduct of Defendants, as set forth above, Plaintiff suffered special and general damages as set forth herein.

95. Defendants' conduct, as set forth herein, was grossly negligent and through reasonable and necessary inspections it would have been readily apparent that the injury, discomfort, and annoyance would unavoidably result to Plaintiff.

SEVENTH CAUSE OF ACTION
(Breach of Covenant of Quiet Enjoyment)

96. Plaintiff re-alleges and incorporates herein all prior allegations as though fully set forth herein.

97. By the acts and omissions described above, Defendants interfered with, interrupted, and deprived Plaintiff of the full and beneficial use of the Premises and disturbed Plaintiff's peaceful possession of the Premises.

98. These acts of interference, interruption, deprivation, and disturbance by Defendants amount to a breach of the covenant of quiet enjoyment implied in all rental agreements, and codified in California Civil Code §1927.

99. On February 5, 2019, Liliana Palacios with SF Women Against Rape, contacted Patricia Barragan of the San Francisco District Attorney's office regarding the ongoing sexual and homophobic harassment Plaintiff had endured at the Property and Premises. Plaintiff presented with extreme anxiety, agitation, significant sleep problems and loss of appetite. As the problem had gone on for so long without help or treatment, Ms. Palacios felt that Plaintiff would benefit from additional victim advocacy services. Defendants received a copy of this letter but ignored Plaintiffs pleas for help.

100. On June 12, 2019, Dr. Paul Linde, M.D., informed Defendants' 504 Coordinator, Allycia Cornet, that it was medically necessary to relocate Plaintiff to another property to avoid the "hostile environment" at the Property. The ABPN board-certified psychiatrist wrote that Plaintiff suffered a condition covered under the Americans with Disabilities Act. Dr. Linde specifically stated: "I am requesting a reasonable accommodation allowing the patient to move to a different housing program within your organization. I do not see an accommodation short of this as adequate to address his symptoms." Dr. Linde stated that the recurring homophobic, threatening, and discriminatory interactions with Defendants' staff made relocation, "medically necessary to treat his deteriorating mental health due to his disabling condition."

101. As a direct and proximate result thereof, Plaintiff has suffered, and continues to suffer, pain, discomfort, annoyance, inconvenience, anxiety, economic loss, loss of use, and mental anguish, all to her detriment in amounts to be determined at trial.

EIGHTH CAUSE OF ACTION
(Negligence/Personal Injury)

102. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

103. By reason of the Agreement and the landlord-tenant relationship between Defendants and Plaintiff, Defendants, and their agents, owed Plaintiff a duty to exercise reasonable care in the ownership, management, inspection, and control of the Subject Property, which included a statutory duty to comply with all applicable laws governing Plaintiff' rights as a tenant and all duties listed below. Defendants also owed a duty to exercise reasonable care in maintaining the Subject Property and Premises free of defects and/or hazards and in inspecting the Subject Property and Premises for same, so as to preclude any person, including Plaintiff, from unreasonable risk of harm. Defendants also owed a duty to warn Plaintiff of any potential and non-obvious hazards.

104. The duty to exercise reasonable care owed by Defendants, and each of them, to Plaintiff also included, but was not limited to the following duties: the duty to provide Plaintiff with legal, tenantable housing, fit for human occupancy; the duty to refrain from interfering with Plaintiff's full use and quiet enjoyment of the rented residence; and the duty to comply with all applicable state and local laws governing Plaintiff's rights as a tenant.

105. On September 4, 2018, Sheryl Davis of San Francisco's Human Rights Commission wrote that Plaintiff suffered significant psychological trauma that manifested both emotionally and physically. Plaintiff suffered, *inter alia*, significant sleep loss, headaches, loss of appetite, severe depression, suicidal ideation, severe anxiety and agitation, general malaise, and severe psychological trauma that exacerbated his existing Post Traumatic Stress Disorder. Defendants received notice of these mental and physical injuries but deliberately failed to address their staff's and nuisance tenants' behavior.

106. Sadly, the persistent harassment from other tenants as well as the dismissive and hostile conduct of Defendants' staff caused Plaintiff to periodically lose his desire to live. In a note recorded by Plaintiff's social worker on March 15, 2018, Plaintiff specifically requested that he be subject to 5150 Involuntary

Treatment if he reported further suicidal ideation. The note calls out Defendants' management and staff at the Property as the direct and proximate cause of Plaintiff's agonized and rapidly deteriorating mental state.

107. On February 5, 2019, Liliana Palacios with SF Women Against Rape, contacted Patricia Barragan of the San Francisco District Attorney's office regarding the ongoing sexual and homophobic harassment Plaintiff had endured at the Property and Premises. Plaintiff presented with extreme anxiety, agitation, significant sleep problems and loss of appetite. As the problem had gone on for so long without help or treatment, Ms. Palacios felt that Plaintiff would benefit from additional victim advocacy services. Defendants received a copy of this letter but ignored Plaintiffs pleas for help.

108. On June 12, 2019, Dr. Paul Linde, M.D., informed Defendants' 504 Coordinator, Allycia Cornet, that it was medically necessary to relocate Plaintiff to another property to avoid the "hostile environment" at the Property. The ABPN board-certified psychiatrist wrote that Plaintiff suffered a condition covered under the Americans with Disabilities Act. Dr. Linde specifically stated: "I am requesting a reasonable accommodation allowing the patient to move to a different housing program within your organization. I do not see an accommodation short of this as adequate to address his symptoms." Dr. Linde stated that the recurring homophobic, threatening, and discriminatory interactions with Defendants' staff made relocation, "medically necessary to treat his deteriorating mental health due to his disabling condition."

109. Defendants, by the acts and omissions alleged herein, were negligent and careless and thereby breached said duties. Defendants also breached their duties to Plaintiff by failing to inspect the Subject Property and Premises, to repair the Subject Property and Premises properly, to maintain the Subject Property and Premises free of defects and hazards, and to warn Plaintiff of the potentially hazardous nature of the conditions found at the Subject Property and Premises.

110. As a direct and proximate result of these breaches of duty by Defendants, Plaintiff suffered actual and special damages as herein alleged.

NINTH CAUSE OF ACTION
(Negligent Violation of Statutory Duty)

111. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

112. Defendants violated their duty of due care to Plaintiff and violated their statutory duties to Plaintiff by violating certain housing, building and fire codes, local ordinances and state statutes, including but not limited to: Civil Code § 1941.1 (a), and Health & Safety Code §§ 17920.3, 17975, et seq.

113. At all times relevant, Plaintiff belonged to the class of persons for which these statutes were designed to offer protection. The harm that has befallen Plaintiff is of the type these statutes were designed to prevent.

114. As a proximate result of Defendants' negligent violation of statutory duty, as set forth above, Plaintiff has suffered actual, special and general damages as set forth herein.

TENTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

115. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

116. The acts of Defendants, as heretofore alleged were extreme and outrageous and done with conscious disregard for the rights of Plaintiff. Defendants made promises to Plaintiff that they would perform repairs and subsequently refused to make the promised repairs, ignoring Plaintiff's continual requests for nearly two full years. Defendants also had the duty to cease or control retaliatory harassment from their staff and known nuisance tenants but deliberately failed to curb misconduct documented in repeated grievance forms and incident reports. Plaintiff suffered extreme emotional distress as a result of Defendants' retaliatory harassment and knowing, intentional, and willful failure to correct the defective conditions of the Premises.

117. Defendants knew that Plaintiff was susceptible to additional discomfort as a result of the conduct described, knew Plaintiff suffered a debilitating PTSD condition, knew that their conduct adversely affected Plaintiff, had the wherewithal to avoid the conduct, yet consciously failed and refused to do so.

118. On September 4, 2018, Sheryl Davis of San Francisco's Human Rights Commission wrote that Plaintiff suffered significant psychological trauma that manifested both emotionally and physically. Plaintiff suffered, *inter alia*, significant sleep loss, headaches, loss of appetite, severe depression, suicidal ideation, severe anxiety and agitation, general malaise, and severe psychological trauma that exacerbated his existing Post Traumatic Stress Disorder. Defendants received notice of these mental and physical injuries but deliberately failed to address their staff's and nuisance tenants' behavior.

119. The persistent harassment from other tenants as well as the dismissive and hostile conduct of Defendants' staff caused Plaintiff to periodically lose his desire to live. In a note recorded by Plaintiff's social worker on March 15, 2018, Plaintiff specifically requested that he be subject to 5150 Involuntary Treatment if he reported further suicidal ideation. The note calls out Defendants' management and staff at the Property as the direct and proximate cause of Plaintiff's agonized and rapidly deteriorating mental state.

120. On February 5, 2019, Liliana Palacios with SF Women Against Rape, contacted Patricia Barragan of the San Francisco District Attorney's office regarding the ongoing sexual and homophobic harassment Plaintiff had endured at the Property and Premises. Plaintiff presented with extreme anxiety, agitation, significant sleep problems and loss of appetite. As the problem had gone on for so long without help or treatment, Ms. Palacios felt that Plaintiff would benefit from additional victim advocacy services. Defendants received a copy of this letter but ignored Plaintiffs pleas for help.

121. On June 12, 2019, Dr. Paul Linde, M.D., informed Defendants' 504 Coordinator, Allycia Cornet, that it was medically necessary to relocate Plaintiff to another property to avoid the "hostile environment" at the Property. The ABPN board-certified psychiatrist wrote that Plaintiff suffered a condition covered under the Americans with Disabilities Act. Dr. Linde specifically stated: "I am requesting a reasonable accommodation allowing the patient to move to a different housing program within your organization. I do not see an accommodation short of this as adequate to address his symptoms." Dr. Linde stated that the recurring homophobic, threatening, and discriminatory interactions with Defendants' staff made relocation, "medically necessary to treat his deteriorating mental health due to his disabling condition."

122. Defendants' conduct described herein occurred months, and in some cases years, after actual notice that (a) substandard conditions and (b) retaliatory misconduct including, but not limited to, that set forth in paragraphs 24, 39, 50 and 55 caused physical and emotional harm to Plaintiff, which Defendants knew or should have known would cause severe pain and distress.

123. Defendants' knowingly, deliberately, and in retaliation for assertion of rights set forth in and protected by San Francisco Administrative Code §§ 37.9, *et seq.*, and 37.10B, *et seq.*, as well as Civil Code §§ 1940, *et seq.*, 1941, *et seq.*, and 1942, *et seq.*, caused Plaintiff's ouster subsequent to assertions of tenant rights, and, more specifically, rights to quiet enjoyment of a tenantable dwelling free from habitability

defects, nuisances, and retaliatory misconduct expressly prohibited by State and local law.

124. Defendants thereby forced Plaintiff out in bad faith, and with malicious and oppressive intent, through outrageous behavior directed at and intended to cause severe emotional distress in Plaintiff, all in retaliation for his repeated assertion of rights.

125. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered, and continues to suffer, severe mental, emotional, and physical distress, pain, and suffering, all to Plaintiff's general and punitive damage, in an amount to be proven at trial.

ELEVENTH CAUSE OF ACTION
(Violation of California Civil Code § 1942.5)

126. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

127. Defendants, as lessors or agents of the lessors, retaliated against Plaintiff's lawful exercise of his rights as a tenant, and within one hundred and eighty (180) days of DBI's inspection and issuance of a citation. (Cal. Civ. Code § 1942.5(a)(3).)

128. Defendants, as lessors or agents of the lessors, caused a decrease in services, threatened to evict Plaintiff, and filed an unlawful detainer against Plaintiff within 180 days of his complaints to DBI, of DBI's inspection, of DBI issuing a Notice of Violation, and of Plaintiff's Tenant Petition to the Rent Board. Defendants thereby deliberately retaliated against Plaintiff in violation of Cal. Civ. Code § 1942.5(d).

129. Defendants' deliberately failed to remediate or abate substandard conditions cited in multiple NOVs for well over thirty-five (35) days past issuance, causing DBI to subsequently issue an Abatement Order against the Property. Defendants ultimately failed to clear all violations until December 11, 2019.

130. On information and belief, Defendants deliberately ignored requests, demands, and other feedback brought by Plaintiff for the purpose of retaliating against Plaintiff's lawful advocacy, for asserting his rights as a tenant, and for pursuing other rights under the law, including but not limited to rights provided through the rental agreement and San Francisco's Administrative Code §§ 37.9, *et seq.*, and 37.10B, *et seq.* Defendants' violative conduct included but was not limited to decrease in services, invitations to vacate followed by threats and demands that Plaintiff could be sued for inspecting the quality of his home, erroneous accusations that Plaintiff had caused or was responsible for substandard conditions, mocking the

suffering of Plaintiff, and other acts intended to, and which ultimately did, cause Plaintiff to quit involuntarily. (Cal. Civ. Code § 1942.5(d).)

131. Defendants knowingly, deliberately, and in retaliation for assertion of rights set forth in and protected by San Francisco's Administrative Code §§ 37.9, *et seq.*, and 37.10B, *et seq.*, as well as Civil Code §§ 1940, *et seq.*, 1941, *et seq.*, and 1942, *et seq.*, caused Plaintiff's ouster within 180 days of: (1) Plaintiff's assertions of rights as a tenant; and (2) Plaintiff's assertions of other legal rights generally.

132. Defendants ultimately forced Plaintiff out in bad faith, and with malicious and oppressive intent, through malicious behavior directed at and intended to cause severe emotional distress in Plaintiff, all in deliberate retaliation for assertion of rights and calls to code enforcement.

133. As a proximate result of Defendants' deliberate violation, as set forth above, Plaintiff has suffered actual, special and general damages as set forth herein.

134. Pursuant to Cal. Civ. Code § 1942.5(h)(2), Plaintiff is entitled to recover punitive damages in the amount of $2,000 for each retaliatory act set forth herein.

TWELFTH CAUSE OF ACTION
(Breach of Contract)

135. Plaintiff re-alleges and incorporates all prior allegations as though fully set forth herein.

136. Defendants failed and continue to fail to perform the terms and conditions of the Agreement by which they are bound. Defendants breached the Agreement by, among other things, failing to provide a habitable and safe living environment; failing to maintain and repair the Premises; preventing quiet enjoyment by Plaintiff of the Premises; retaliating for Plaintiff's assertion of her rights; wrongfully demanding and collecting rent notwithstanding uninhabitable conditions; and breaching numerous Agreement provisions.

137. Plaintiff performed all duties, conditions and obligations that were required of him pursuant to the terms of the Agreement. The breaches of the Agreement by Defendants herein alleged are the direct and proximate cause of damages to Plaintiff as described herein. Plaintiff is entitled to reasonable attorneys' fees and costs pursuant to Civil Code § 3304.

138. Despite Plaintiff's efforts to honor the terms of the rental agreement, Defendants repeatedly

breached the rental agreement by, *inter alia*, failing to provide a tenantable unit free from nuisances and defects, and by harassing and retaliating against Plaintiff as set forth in paragraphs 22, 37, 48, and 53.

139. Defendants' conduct in failing and refusing to maintain the property, and in repeatedly harassing Plaintiff in violation of the Rental Agreement, has been despicable, malicious, willful, knowing, cruel, unjust and oppressive, thereby entitling Plaintiff to punitive damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For general damages according to proof;
2. For special damages according to proof;
3. For punitive damages allowed by California and San Francisco law for the causes of action pled herein;
4. For statutory damages as allowed by law, $2,000 per each violation of Civil Code § 1942.5;
5. For compensatory damages for losses resulting from humiliation, mental anguish, and emotional distress according to proof;
6. For incidental expenses, past, present and future;
7. For the costs of suit;
8. For trebling of actual damages, as well as damages for mental and emotional distress, as provided by San Francisco Administrative Code §§ 37.9, *et seq.* and 37.10B, *et seq.*;
9. For attorney fees as provided by the agreement, by statute, and by San Francisco Administrative Code §§ 37.9, *et seq.* and 37.10B, *et seq.*;
10. For such other and further relief as the Court deems just and proper.

Dated: October 6, 2020

PETTIBONE TENANT LAW

By: _____
Jeffrey L. Pettibone, Esq.
Attorney for Plaintiff

EXHIBIT A

EVICTION DEFENSE COLLABORATIVE

Francisco G. Torres
ZANGHI TORRES ARSHAWSKY LLP
625 Market Street, 4th Floor
San Francisco, CA 94105

September 5, 2019

RE: Request for Reasonable Accommodation for Anthony Caldwell
[CUD-19-665637]
VIA: U.S. MAIL & EMAIL

Dear Francisco Torres:

I write to request reasonable accommodations in my client's housing due to their disabilities. Under state and federal law, a person with disabilities must be granted reasonable accommodations by their landlord unless the requested accommodation imposes a fundamental alteration in a housing program or an undue financial or administrative burden on the landlord.

This is not the first time that Anthony Caldwell has requested reasonable accommodations from his landlord. Mr. Caldwell made requests on January 31, 2018 and November 14, 2017. The landlord failed to respond to either of these requests or to open a dialogue with Mr. Caldwell.

Mr. Caldwell is disabled under applicable standards due to the following disabling conditions: Post-Traumatic Stress Disorder. He is undergoing treatment with a psychiatrist at UCSF and he receives Social Security Disability Insurance due to these diagnoses.

Please see the following documentation of his status as a disabled person, attached as follows:

1. Letter from treating psychiatrist, Paul R. Linde. *See Exhibit A.*
2. Letter from treating counselor, Liliana Palacios *See Exhibit B.*

The reasonable accommodation I request is that the landlord accept his partial payment of the back rent that is owed as provided by a rental assistance agency and thereafter accept partial payments from Mr. Caldwell in the amount of $40 per month on the first of each month until such amount is paid completely. Further, I request that any of these additional monthly payments may be made by a rental assistance agency including a lump sum payment by a rental assistance agency.

Accommodations must be granted pursuant to the federal Fair Housing Act (the "Act') so long as they are reasonable and necessary to afford the handicapped individual an equal opportunity to use and enjoy a dwelling. *Smith & Lee Assocs., Inc. v. City of Taylor*, 102 F.3d 781, 795-96 (1996). An accommodation is reasonable when it does not impose "undue financial and administrative

burdens" on a landlord or impose a "fundamental alteration in the nature of a program". *Id.* at 795; *and see Groner v. Golden Gate Gardens Apts.*, 250 F.3d 1039, 1044 (2001); *Giebeler v. M & B Assocs.*, 343 F.3d 1143, 1157 (2003); *and see* 42 U.S.C. § 3601., *et seq.*; Cal. Civ. Code § 54.1, *et seq.*

Here, the landlord will suffer no undue financial or administrative burden or fundamental alteration of a program by accepting payment from a rental assistance agency. Mr. Caldwell was suffering from severe depression and suicidal impulses during the pendency of the unlawful detainer that was based on his untreated mental health issues. However, he now receives treatment for his illness and continues to comply with the recommendations of his psychiatrist. As such, he does not believe that he will have trouble paying his rent in the future.

Accordingly, the housing provider, will not suffer undue financial or administrative burden or fundamental alteration of a program. Thus, the landlord should grant his reasonable accommodation request. If they do not, you will lose an unlawful detainer trial in this matter, as failure to provide a reasonable accommodation is a defense to an unlawful detainer action. *Douglas v. Kriegsfield Corp*, 884 A.2d 1109, 1114 (2005). In addition, you will be subject to an affirmative lawsuit for disability discrimination. "To show discrimination based on failure to provide a reasonable accommodation, a plaintiff must merely demonstrate that (1) he or she suffers from a handicap as defined by the Fair Housing Act; (2) defendants knew or reasonably should have known of Plaintiff's handicap; (3) accommodation of the handicap 'may be necessary' to afford plaintiff an equal opportunity to use and enjoy the dwelling; and (4) defendants refused to make such accommodation. *S. California Hous. Rights Ctr. v. Los Feliz Towers Homeowners Ass'n*, 426 F. Supp. 2d 1061, 1066 (C.D. Cal. 2005).

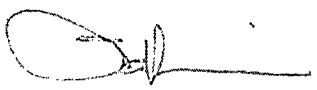
Please note that courts have held that a landlord must consider a tenant's reasonable accommodation request – and grant it if reasonable and necessary – at any time up to the time a tenant is "actually evicted," i.e. "forcibly evicted," even if the request is made after the filing of an unlawful detainer action. *Radecki v. Joura*, 114 F.3d 115, 116 (8th Cir. 1997); *and see Hirsch v. Hargett,* No. 218CV08371ODWAGRX, 2019 WL 2613453, at *5 (C.D. Cal. June 26, 2019) ("A discriminatory denial under the Fair Housing Amendments Act (FHAA) can occur at any time during the entire period *before* a tenant is actually evicted."). Accordingly, as my request for accommodation is reasonable and necessary, and should be granted, **you should also dismiss the current unlawful detainer action forthwith**. *Id* at 117.

In addition to the landlord's duty to provide a reasonable accommodation if they will not suffer undue financial or administrative burden or a fundamental alteration of the program, California law qualifies a denial of housing based on the source of income as discrimination and against public policy. California Government Code, Title 2, §12920.

I am sure you can imagine the impact that eviction and consequent homelessness would have on Mr. Caldwell, given his disabilities. As you realize the burden to the landlord to grant this accommodation and accept payment from a rental assistance agency would be slight in comparison.

I look forward to hearing from you, and forging a pleasant tenancy for Mr. Caldwell under the current management.

Sincerely,



Sarah Fenton Hinks
Staff Attorney

Enclosures: Exhibit A; Exhibit B; RA letter November 14, 2017; RA letter January 31, 2018

Vacate Letter of Anthony Caldwell

To: TNDC (Tiona Mitchell)

From: Anthony Caldwell

As of March 17, 2020, I hereby permanently vacate and surrender possession of the premises, located at 44 McAllister Street, #709, San Francisco, CA 94102. I represent that there are no other occupants of the premises than myself.

Dated: 3-17-2020

Signed: _____

Anthony Caldwell

EXHIBIT B

COMPLAINT DATA SHEET

Complaint Number:	**201960102**		
Owner/Agent:	OWNER DATA SUPPRESSED	Date Filed:	
Owner's Phone:	--	Location:	44 MCALLISTER ST
Contact Name:		Block:	0349
Contact Phone:	--	Lot:	004
Complainant:	COMPLAINANT DATA SUPPRESSED	Site:	
		Rating:	2-3 Years
		Occupancy Code:	R-2
		Received By:	Nicole Rossini
Complainant's Phone:		Division:	HIS
Complaint Source:	TELEPHONE		
Assigned to Division:	HIS		
Description:	Mice infestation. Shower and handicapped shower, 7th floor tenants have to use broken metal shower hose. Mold in bathroom. Floor has no protection for tenants. Roach problem as well. Phones in the rooms don't work.		

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
HIS	BARBER	6334	2	

REFFERAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
06/04/19	CASE OPENED	HIS	Barber	CASE RECEIVED	
06/05/19	GENERAL MAINTENANCE	HIS	Barber	INSPECTION OF PREMISES MADE	Inspector Barber performed an inspection of the subject premises on 6/5/19 to investigate the complaint and observed violations of the San Francisco Housing Code which are delineated within the Notice of Violation identified by Complaint Tracking Number 201960102.
06/05/19	GENERAL MAINTENANCE	HIS	Barber	TELEPHONE CALLS	Called complainant, scheduled inspection.
06/14/19	GENERAL MAINTENANCE	HIS	Barber	FIRST NOV SENT	
07/16/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 1	Inspector Barber performed a scheduled re-inspection at the subject property on 7/15/19, and found that the following items identified on the Notice of Violation issued on 6/14/19 were: a) outstanding: 9, 11 b) completely corrected: 2, 3, 6, 7, 8 c) partially corrected: 4 (shower hose missing at 2nd floor, 2nd floor grab bars broken and seat missing in accessible bathroom), 5 (some roaches still present), 10 (8th floor one stove lights and fan still not working)
07/16/19	GENERAL MAINTENANCE	HIS	Barber	FINAL WARNING LETTER SENT	
07/31/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 2	Inspector Barber performed a scheduled re-inspection at the subject property on 7/31/19, and found that the following items identified on the Notice of Violation issued on 6/14/19 were: a)

					completely corrected: 2, 3, 4, 6, 7, 8, 9, 10, 11 b) partially corrected: 5 (some roaches still present)
09/13/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 3	Inspector Barber performed a re-inspection on 9/13/19. Item # 5 on the Notice of Violation issued on 6/14/19 still open. Cockroaches observed in unit 5.
10/09/19	GENERAL MAINTENANCE	HIS	Barber	REFER TO DIRECTOR'S HEARING	
10/31/19	GENERAL MAINTENANCE	HIS	Barber	DIRECTOR HEARING NOTICE POSTED	
11/14/19	GENERAL MAINTENANCE	HIS	Lawrie	DIRECTOR'S HEARING DECISION	Owner was not represented, 7 day Order of Abatement.
12/02/19	GENERAL MAINTENANCE	HIS	Barber	ORDER OF ABATEMENT POSTED	
12/04/19	GENERAL MAINTENANCE	HIS	Barber	ORDER OF ABATEMENT ISSUED	Order mailed 11/26/19
12/09/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 4	Inspector Barber performed a scheduled re-inspection at the subject property on 12/9/19, and found that the following items identified on the Noticee of Violation issued on 6/14/19 were: Item # 5 still open. Cockroaches observed in unit 5.
12/10/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 5	Inspector Barber performed a scheduled re-inspection at the subject property on 12/10/19, and found that the following items identified on the Noticee of Violation issued on 6/14/19 were: all items completed.
12/11/19	GENERAL MAINTENANCE	HIS	Barber	CASE ABATED	

COMPLAINT ACTION BY DIVISION

NOV (HIS): 06/14/19 **NOV (BID):**

Inspector Contact Information

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Welcome to our Permit / Complaint Tracking System!

COMPLAINT DATA SHEET

Complaint Number:	**201985631**		
Owner/Agent:	OWNER DATA SUPPRESSED	Date Filed:	
Owner's Phone:	–	Location:	44 MCALLISTER ST
Contact Name:		Block:	0349
Contact Phone:	–	Lot:	004
Complainant:	COMPLAINANT DATA SUPPRESSED	Site:	
		Rating:	1 Year
		Occupancy Code:	R-2
		Received By:	Joseph Barber
Complainant's Phone:		Division:	HIS
Complaint Source:	TELEPHONE		
Assigned to Division:	HIS		
Description:	missing shower hose, leaking sink, knob missing on radiator		

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
HIS	BARBER	6334	2	

REFFERAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
09/13/19	GENERAL MAINTENANCE	HIS	Barber	INSPECTION OF PREMISES MADE	Inspector Barber performed an inspection of the subject premises on 9/13/19 to investigate the complaint and observed violations of the San Francisco Housing Code which are delineated within the Notice of Violation identified by Complaint Tracking Number 201985631.
09/13/19	CASE OPENED	HIS	Barber	CASE RECEIVED	
09/18/19	GENERAL MAINTENANCE	HIS	Barber	FIRST NOV SENT	
09/23/19	GENERAL MAINTENANCE	HIS	Barber	BLDG POSTED & TENANTS NOTIFIED AS PER NOTIFICATION REQMNTS	Unit : ;# of postings left on building: 1:Locations : 1:Unit #s mailed posting: 1.
10/21/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 1	Inspector Barber performed a scheduled re-inspection at the subject property on 10/21/19, and found that the following items identified on the Noticee of Violation issued on 9/18/19 were: a) outstanding: 2, 5 b) completely corrected: 3, 4, 6
11/27/19	GENERAL MAINTENANCE	HIS	Barber	FINAL WARNING LETTER SENT	
12/10/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 2	Inspector Barber performed a scheduled re-inspection at the subject property on 12/9/19, and found that the following items identified on the Noticee of Violation issued on 9/18/19 were: a) outstanding: 2 All other items completed.
12/11/19	GENERAL MAINTENANCE	HIS	Barber	CASE ABATED	
12/11/19	GENERAL MAINTENANCE	HIS	Barber	REINSPECTION 3	Inspector Barber performed a scheduled re-inspection at the subject property on 12/10/19, and found that the following items identified on the Noticee of Violation issued on 9/18/19 were: all items completed.

COMPLAINT ACTION BY DIVISION

NOV (HIS): 09/18/19 NOV (BID):

Inspector Contact Information

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

City and County of San Francisco © 2020

DEPARTMENT BUILDING INSPECTION

Housing Inspection Services Division
City and County of San Francisco
1660 Mission Street 6th Floor, San Francisco, California 94103-2414
(415) 558-6220 Fax: (415) 558-6249 Email: DBIHIDComplaints@sfgov.org Website: www.sfdbi.org

NOTICE OF VIOLATION

COMPLAINT: **201985631**

OWNER/AGENT: 44 MCALLISTER ASSOCIATES LP

MAILING ADDRESS: 44 MCALLISTER ASSOCIATES LP
201 EDDY ST
SAN FRANCISCO CA

94102

DATE: 18-SEP-19

LOCATION: **44 MCALLISTER ST**

BLOCK: 0349 **LOT :** 004

NOTICE TYPE: COMPLAINT

BUILDING TYPE: HOTEL **USE TYPE:** NA

YOU ARE HEREBY ORDERED TO COMPLY WITH THE FOLLOWING REQUIREMENTS:

	ITEM	DESCRIPTION
1	THIS NOTICE INCLUDES VIOLATIONS FOR THE AREAS NOTED.	Common areas of 44 Mcallister and unit #709
2	REPAIR SINK (1001f HC)	Sink in room 709 leaks from counter down to kitchen sink cabinet. Seal area around sink properly to prevent any further leaking. Repair any water damage resulting from leak.
3	REPAIR DAMAGED WALLS (1001b,h,o HC)	In room 709 there is a large hole at the side wall of the cabinet below kitchen sink. Seal this hole and any other gaps/holes in walls that may provide entry points for pests.
4	GENERAL DILAPIDATION OR IMPROPER MAINTENANCE (1001 (b)(13))	Repair/replace missing knob on radiator in room 709.
5	GENERAL DILAPIDATION OR IMPROPER MAINTENANCE (1001 (b)(13))	Replace missing shower hose at 7th floor accessible shower room.
6	GENERAL DILAPIDATION OR IMPROPER MAINTENANCE (1001 (b)(13))	Repair oven at second floor kitchen. Knob is missing form oven and fans/lights were not working at time of inspection.

DEPARTMENT BUILDING INSPECTION

Housing Inspection Services Division
City and County of San Francisco
1660 Mission Street 6th Floor, San Francisco, California 94103-2414
(415) 558-6220 Fax: (415) 558-6249 Email: DBIHIDComplaints@sfgov.org Website: www.sfdbi.org

NOTICE OF VIOLATION

COMPLAINT: 201985631

7 INSPECTOR COMMENTS

It is the property owner's responsibility to be present or direct his/her representative to attend, the reinspection as scheduled on this Notice of Violation for the purpose of providing entry to the Inspector of those areas not accessed during the initial inspection as specified, and/or to a access to all areas cited within this Notice. If the property owner cannot attend the scheduled re-inspection (as specified on this Notice) it is his/her responsibility to secure a different inspection date and time with the Inspector, and provide all tenants with notification as required by California Civil Code Section 1954 (San Francisco Housing Code Section 303(b), if any dwellings, apartment units or guest rooms are to be accessed during the re-inspection.

Correction of violations cited in this Notice may require Building, Plumbing and/or Electrical permits. It is the responsibility of the owner to obtain (or have others obtain) any required permits before beginning work that requires permit(s). When applying for a Permit, reference the complaint number from this Notice of Violation.You must have the proper permit signed-off and finalized before housing inspector returns in order for this violation to be abated.

IMPORTANT NOTE: Due to the nature of this violation, this property has been defined as a Nuisance per section 1001(d) of the San Francisco Housing Code.

ALL ITEMS MUST BE COMPLETED WITHIN 30 **DAYS. REINSPECTION DATE :** 21 October 2019 10:30 AM

IT IS RECOMMENDED THAT THE OWNER/OWNERS REPRESENTATIVE CONFIRM REINSPECTION DATE/TIME.

CONTACT HOUSING INSPECTOR : Joseph Barber AT 415-575-6988

FOR EVERY INSPECTION AFTER THE INITIAL RE-INSPECTION, A $170.00 FEE WILL BE CHARGED UNTIL THE VIOLATIONS ARE ABATED. SFBC 108.8

DEPARTMENT OF BUILDING INSPECTION

Housing Inspection Services Division
City and County of San Francisco
1660 Mission Street 6th Floor, San Francisco, California 94103-2414
(415) 558-6220 Fax: (415) 558-6249 Email: DBIHIDComplaints@sfgov.org Website: www.sfdbi.org

NOTICE OF VIOLATION WARNINGS!

TO THE PROPERTY OWNER(S), THEIR SUCCESSORS, AND ALL OTHER PERSONS HAVING ANY INTEREST IN THE ABOVE DESCRIBED PROPERTY LOCATED IN THE CITY AND COUNTY OF SAN FRANCISCO PLEASE TAKE NOTICE:

COMPLIANCE WITHIN SPECIFIED TIME FRAME REQUIRED: The described premises were inspected by inspector(s) of the Department of Building Inspection. As a result of the inspection(s), violations were found to exist and were listed in the Notice of Violation mailed to the property owner(s). ACCORDINGLY, the owner(s) of the above described property are required, within the time frame set forth in this Notice, to make application (if required) for the necessary permits, to correct the conditions diligently and expeditiously, and to complete the work within the specified time on the attached NOTICE(S), to be verified by the appropriate Inspector through site inspection.

COST OF CODE ENFORCEMENT WILL BE BORNE BY THE PROPERTY OWNER: Section 102A.3 of the San Francisco Building Code provides that in addition to the civil penalties described therein, the property owner shall be assessed all attendant, administrative, and inspection's costs incurred by the Department of Building Inspection for the property owner's failure to comply with this Notice. These costs arise from department time accrued pertaining but not limited to: (1) monthly violation monitoring, (2) case inquiries (phone calls, counter visits, response to correspondence, etc.), (3) case management, (4) permit history research, (5) notice/hearing preparation, (6) inspections, (7) staff appearances/reports at hearings, and (8) case referrals.

Assessment of Costs will accrue when the property owner fails to comply with this Notice through: (1) a monthly violation monitoring fee of $52.00, and (2) an hourly rate of $104.00 for case management/administration, and $170.00 for inspections, as provided for in Sections 102A.3, 102A.17, and Section 110A, Tables IA-D, and IA-K of the San Francisco Building Code. The property owner will be notified by letter of the accrued Assessment of Costs following failure to comply with this Notice. Failure to pay the Assessment of Costs shall result in: (1) the case not being legally abated until all assessments are paid, and (2) tax lien proceedings against the property owner pursuant to Sections 102A.3, 102A.16, 102A.17,102A.18 et seq., 102A.19 et seq.,and 102A.20 of the San Francisco Building Code.

REFERRAL TO STATE FRANCHISE TAX BOARD: Section 17274 and 24436.5 of the Revenue and Taxation Code provide, interalia, that a taxpayer who derives rental income from housing determined by the local regulatory agency to be substandard by reason of violation of state or local codes dealing with housing, building, health and/or safety, cannot deduct from state personal income tax and bank and corporate income tax, deductions for interest, depreciation of taxes attributable to such substandard structure where substandard conditions are not corrected within six (6) months after Notice of Violation by the regulatory agency. If corrections are not completed or being diligently and expeditiously and continuously performed after six (6) months from the date of this Notice of Violation, notification will be sent to the Franchise Tax Board as provided in Section 17274(c) of the Revenue and Taxation Code.

PUBLIC NUISANCES & MISDEMEANORS: Section 102A of the San Francisco Building Code and Sections 204, 401 and 1001(d) of the San Francisco Housing Code provide that structures maintained in violation of the Municipal Code are public nuisances and as such are subject to the code enforcement action delineated therein. Section 204 of the Housing Code provides that any person, the owner(s) or his authorized agent who violates, disobeys, omits, neglects or refuses to comply with the Housing Code, or any order of the Director, made pursuant to this Code, shall be guilty of a misdemeanor, upon conviction thereof punishable by a fine not exceeding $1,000.00, or by imprisonment not exceeding six (6) months, or by both fine and imprisonment, and shall be deemed guilty of a separate offense for every day such violations continue.

PERMIT REQUIREMENTS: Any required permit application must be applied for within the time limit set forth in the attached Notice(s). Permit applications are to be filed with the requisite plans, drawings, and specifications at the Central Permit Bureau, Department of Building Inspection, at 1660 Mission Street, 1st Floor. A post card will be mailed to you by the Central Permit Bureau when the building permit is ready to be picked up. Pursuant to Sections 107A.5, and 110A, Table 1A-K of the San Francisco Building Code investigation fees, are charged for work begun or performed without permits or for work exceeding the scope of permits. Such fees may be appealed to the Board of Permit Appeals within 15 days of permit issuance at 1660 Mission Street, 3rd floor, Room 3036 at (415) 575-6880.

NOTIFICATION TO BUILDING TENANTS: Pursuant to Sections 17980.1 and 17980.6 of the California Health & Safety Code, and Section 102A.3 of the San Francisco Building Code, when issuing a Notice of Violation the local jurisdiction shall post a copy of the Notice in a conspicuous place on the property and make available a copy to each tenant thereof.

PROPERTY OWNER/LESSOR MAY NOT RETALIATE AGAINST TENANT/LESSEE FOR MAKING A COMPLAINT Pursuant to Section 17980.6 of the California Health & Safety Code, the property owner may not retaliate against the tenant/lessee for exercising rights under the Section 1942.5 of the California Civil Code.

REINSPECTION FEES: For every inspection, after the initial re-inspection, a $170.00 fee will be charged until the violations are abated pursuant to Sections 108A.8 and 110A, Table IA-G of the San Francisco Building Code.

VIOLATIONS OF WORK PRACTICES FOR LEAD-BASED PAINT DISTURBANCE: Section 3423 of the San Francisco Building Code regulates work that disturbs or removes lead paint. Failure to comply with these requirements may result in a penalty not to exceed $500.00 per day plus administrative costs as provided by Section 3423.8 of this Code.

Upon completion of all required work, you must contact the designated Housing Inspector for a final inspection, unless otherwise specified. Please contact the Housing Inspection Services Division if you have any questions. If you want more information on the overall code enforcement process you may request a copy of the Department brochure entitled What You Should Know About the Department of Building Inspection Code Enforcement Process or download the document from the Department website.
NCTS_NOV.rdf revised 6/22/2011

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Jeffrey J. Pettibone, Esq. SBN: 320127
Pettibone Tenant Law
505 14th Street, Suite 900, Oakland, CA 94612
info@pettibonetenantlaw.com
TELEPHONE NO.: (916) 949-4240 FAX NO.: (510) 842-1504
ATTORNEY FOR (Name): Plaintiff Anthony Caldwell

FOR COURT USE ONLY

FILED
Superior Court of California
County of San Francisco
OCT 06 2020
CLERK OF THE COURT
BY: ANGELICA SUNGA Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS: 400 McAllister Street
CITY AND ZIP CODE: San Francisco CA 94102
BRANCH NAME: Civil - Unlimited Jurisdiction

CASE NAME:
Anthony Caldwell v. 44 McAllister Assoc., L.P., a Cal. L.P., et al.

CIVIL CASE COVER SHEET
☑ **Unlimited** (Amount demanded exceeds $25,000) ☐ **Limited** (Amount demanded is $25,000 or less)

Complex Case Designation
☐ **Counter** ☐ **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: CGC-20-586990
JUDGE:
DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort
- ☐ Auto (22)
- ☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)
- ☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- ☐ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD tort (35)

Employment
- ☐ Wrongful termination (36)
- ☐ Other employment (15)

Contract
- ☐ Breach of contract/warranty (06)
- ☐ Rule 3.740 collections (09)
- ☐ Other collections (09)
- ☐ Insurance coverage (18)
- ☐ Other contract (37)

Real Property
- ☐ Eminent domain/Inverse condemnation (14)
- ☑ Wrongful eviction (33)
- ☐ Other real property (26)

Unlawful Detainer
- ☐ Commercial (31)
- ☐ Residential (32)
- ☐ Drugs (38)

Judicial Review
- ☐ Asset forfeiture (05)
- ☐ Petition re: arbitration award (11)
- ☐ Writ of mandate (02)
- ☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- ☐ Antitrust/Trade regulation (03)
- ☐ Construction defect (10)
- ☐ Mass tort (40)
- ☐ Securities litigation (28)
- ☐ Environmental/Toxic tort (30)
- ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
- ☐ RICO (27)
- ☐ Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
- ☐ Partnership and corporate governance (21)
- ☐ Other petition *(not specified above)* (43)

2. This case ☐ is ☑ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☐ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply)*: a. ☑ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☑ punitive
4. Number of causes of action *(specify)*: 12
5. This case ☐ is ☑ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: October 6, 2020
Jeffrey J. Pettibone, Esq.
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition